

VOLUME 5, CHAPTER 25: “CLAIMS AGAINST THE GOVERNMENT (INCLUDES QUESTIONABLE AND FRAUDULENT CLAIMS)”

SUMMARY OF MAJOR CHANGES

All changes are denoted by **blue font**.

Substantive revisions are denoted by an * symbol preceding the section, paragraph, table, or figure that includes the revision.

Unless otherwise noted, chapters referenced are contained in this volume.

Hyperlinks are denoted by **bold, italic, blue and underlined font**.

The previous version dated August 2008 is archived.

PARAGRAPH	EXPLANATION OF CHANGE/REVISION	PURPOSE
Multiple	Adds certifying officer responsibilities for also detecting and reporting possible fraud.	Add
250201	Clarified definition of fraud.	Update
250403.E	Adds references to Volume 8, Chapter 8 and Volume 7A, Chapter 50 of this Regulation.	Add
250408	Deletes the use of the “Fraud Alert Reporting System”.	Delete

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CHAPTER 25

CLAIMS AGAINST THE GOVERNMENT
(INCLUDES QUESTIONABLE AND FRAUDULENT CLAIMS)

2501 OVERVIEW

This chapter provides policy for processing claims against the government, including questionable and fraudulent claims presented for certification or payment that the certifying officer or disbursing officer (DO) believes to be illegal or improper. This chapter includes the definition for fraud and how it differs from general inaccuracies on voucher submissions. Personnel responsible for processing vouchers must thoroughly research those vouchers. When necessary, they request an advance decision from the appropriate authority; see subparagraph 250302.B of this chapter. Also, see Volume 10, Chapter 3 of this Regulation for guidance on vendor/contractor claims against the government.

2502 FRAUD DEFINED

*250201. Fraud

Fraud is any intentional deception designed to deprive the United States (U.S.) unlawfully of something of value or to secure from the U.S. a benefit, privilege, allowance, or consideration to which a claimant is not entitled. For example, a person submits a claim for reimbursement of a taxi fare for \$70, knowing that the actual fare was only \$20, intending to obtain more money than the person is entitled to receive. The amount claimed is \$50 more than the entitlement (misrepresentation of a material fact). The claimant knows the actual cost but claims more (intent to deceive), and the government is entitled to rely on the truthfulness of the amount claimed.

250202. Claims

Claims may also not be authorized for payment, but not considered fraudulent. An example of this may be a claim for payment prohibited by law or otherwise not authorized, and lacks evidence of willful intent. These claims also may be referred to the appropriate authority for an advance decision.

2503 ADVANCE DECISIONS

250301. Claims

A certifying officer or DO who believes a claim for certification or payment to be illegal or improper processes it in accordance with the following paragraphs.

250302. Application for Decision

- A. Authority. Under [Title 31, United States Code \(U.S.C.\), section 3529 \(31](#)

U.S.C. 3529), a certifying officer, DO, or head of an agency may request an advance decision on the propriety of any prospective payment from an authorized official; see Appendix E of this volume. This authority does not cover the rendering of decisions on questions of law pertaining to payments already made, or for hypothetical cases.

B. Content. State in the request the facts and evidence sufficient to support the reason(s) for the request and upon which the decision is to be based. As a general rule, decisions are rendered only when the request is accompanied by a specific claim or voucher (legible copies are acceptable). Send these requests through the General Counsel of the Department of Defense (DoD) Component or the Defense Finance and Accounting Service (DFAS) to the Deputy General Counsel (Fiscal), DoD (DGC(F)) for determination. The affected Component or DFAS General Counsel must attach a legal memorandum that discusses the legality of the proposed payment under the circumstances.

C. Forwarding of Certain Requests Concerning Military Personnel. Send requests for advance decisions concerning pay, allowances, travel, transportation, retired pay, or survivor benefits for military personnel through the requesting certifying officer's or DO's chain of command.

250303. Other Actions

The responsible activity, DFAS site, or appropriate General Counsel may return cases involving entitlement questions that have been clearly decided authoritatively, with a determination that no advance decision is necessary. Advance decision requests may be resubmitted through the responsible activity or supporting DFAS site to the DoD DGC(F) for reconsideration of a Component General Counsel's advisory interpretation. Attach a copy of the memorandum of each decision to the voucher. NOTE: For cases within DFAS involving payments or certifications of \$250 or less, decisions rendered by DFAS General Counsel are conclusive to the settlement of accounts.

250304. Decisions Rendered

A. Payments in Question. An advance decision is conclusive only regarding the particular payment involved on the question presented. A statement made by the responsible office on an advance decision in the statement of facts submitted which is broader than the stated facts rendered necessary is not binding in the settlement of accounts.

B. Effect On Other Payments. Although an advance decision is only conclusive regarding the specific payment reviewed, certifying officers should use the principles cited in the decision in making entitlement decisions.

*2504 FALSE, FICTITIOUS, OR FRAUDULENT CLAIMS

250401. Determination of Fraud

Although a claimant **must** complete a claim accurately to ensure proper payment, it **is**

inappropriate to assume automatically that the claim is fraudulent because it is not prepared according to the requirements of publications such as the [Joint Federal Travel Regulations \(JFTR\)](#) or the [Joint Travel Regulations \(JTR\)](#).

A. Do not assume every inaccuracy on a claim is evidence of an intent to defraud the government. When minor discrepancies exist as a result of clerical or computation errors, misunderstanding of procedure, or failure to properly document, the intent to deceive may be missing, and a finding of fraud would not likely be supported without evidence. Discuss these errors with the claimant and correct them. For example, when a person inadvertently submits a travel voucher for hotel expenses that contains minor additional room charges that are not payable and, upon notification the claimant acknowledges the mistake and there is no intent to deceive, no fraud has occurred.

B. Where discrepancies are obvious, involve a large or unreasonable amount of money, or are made frequently, a finding of fraud is more likely, absent a satisfactory explanation from the claimant. To ensure the propriety of all payments, the certifying officer and DO are responsible primarily for determining the existence of fraud in a claim; see Chapter 33 of this volume.

250402. Required Action When a Suspected Fraudulent Claim Is Presented for Payment

If there is reason to suspect that a claim presented for certification or payment contains fraudulent information, the certifying officer requests his or her commander or comparable authorized civilian initiate an investigation into the suspected fraud, or a DO suspecting fraud returns the voucher to the certifying officer. The requirement to request an investigation applies regardless of the dollar value. Once the investigation and legal review by the supporting Staff Judge Advocate (SJA) or legal counsel is complete, the investigating officer gives a copy of the completed report of investigation (ROI) to the certifying officer and DO.

A. If the ROI does not support a finding of fraud, the certifying officer may certify the voucher for payment for all amounts to which the claimant is otherwise entitled. The certifying officer documents the reasons for the determination of no fraud, and may be called upon from time to time to furnish this documentation to determine if the guidelines are being applied uniformly throughout DoD.

B. If the ROI confirms that some items of the claim are fraudulent, the certifying officer may certify the voucher for payment of those items free of fraud in certain cases. A claimant who protests the determination of fraud and insists on payment of the entire claim may submit a new claim for the items denied because of fraud. The certifying officer processes the reclamation for the items denied as prescribed in paragraph 250405 of this chapter.

250403. Required Action Upon Discovery That a Fraudulent Claim Has Been Paid

A certifying officer or DO who discovers or is supplied credible information that indicates that a claim was paid based on fraudulent information or documents reviews the

retained copy of the claim to determine if the claim submitted contains false information.

A. A certifying officer or DO who determines that a claim remains suspect requests his or her commander or comparable authorized civilian initiate an investigation into the suspected fraud. The requirement to request an investigation applies regardless of the dollar value of the suspected fraud and includes illegal or improper payments made as a result of issuing recertified payments where the payee negotiated both the original and recertified payment checks. **Once the investigation and legal review by the supporting SJA or legal counsel is complete, the investigating officer gives the certifying officer and DO each a copy of the final ROI.**

B. The **certifying officer or DO sends** a report to the supporting DFAS site **through their commander or comparable authorized civilian equivalent** upon **learning** that a **possible** illegal or improper payment was made on the basis of fraud. Include in the report a basic statement of the irregularity and the date, amount, and identification of the individual(s) involved. Upon completion of the final recovery, investigative, or other negative action, the **certifying officer or DO advises** the supporting DFAS site.

C. A determination of a **potentially** fraudulent claim is the responsibility of the certifying officer and/or DO who bases his or her determination on the criteria in this paragraph and on the legal opinion of the supporting SJA or legal counsel. If the certifying officer or DO determines that no fraud is present, the **certifying officer certifies the voucher for payment**. A certifying officer who determines that some or all items of the claim are fraudulent **does not certify any of** the items recovered **for payment**. Include the following in the second report:

1. A citation of the applicable contract or travel order number,
2. Voucher number,
3. Date of payment,
4. Appropriation charged,
5. A description of the supporting documentation,
6. A description of how the fraud was committed,
7. A description of procedural deficiencies in the disbursing office,
8. The action taken to correct the deficiencies, and
9. Information as to amounts recovered or scheduled for repayment from the recipient of the fraudulent payment.

D. Except under unusual circumstances, do not classify reports or make them in message form. No report is required if the fraud is detected before payment. Should a reclamation claim be received for any or all of an amount recovered by the government because of an illegal or improper payment of any voucher item obtained by fraud or misrepresentation processed under paragraph 250405 of this chapter, a certifying officer may not certify such a claim for payment. Do not defer either submission of a reclamation claim or recovery of amounts paid pending final determination on the claim.

E. Fraud against the government is a serious offense. A commander or equivalent civilian manager consults with representatives of the appropriate Human Resources office in coordination with the supporting legal counsel staff when determining the seriousness of an offense.

1. Procedures for Collecting Illegal or Improper Payments from Civilian Employees. The certifying officer or DO sends fraudulent claims for which payments have been issued to the appropriate pay office and local agency Office of General Counsel (OGC) or SJA for referral to the Defense Criminal Investigative Service or military criminal investigative organization, as appropriate. Recover payments based on substantiated claims of fraud by direct repayment by the employee through salary offset or by other procedures established in Volume 8, Chapter 8 of this Regulation. The certifying officer or DO may take no further action on the fraudulent claim until OGC or SJA gives the DO specific processing and disposition instructions. Hearings may be required under 5 U.S.C. 5514, Installment Deduction for Indebtedness to the United States.

2. Collection Procedures for Debt Owed by Military Members. The certifying officer or DO collects debts owed by military members in accordance with 37 U.S.C. 1007(c), Deductions from Pay, and this Regulation. When a debtor requests reconsideration of a fraud determination, the creditor organization ensures that any evidence or statements submitted by the debtor are considered when the debt is reviewed. The certifying officer or DO refers questionable cases to the local SJA for determination. See Volume 7A, Chapter 50 of this Regulation for additional information concerning debt collection procedures for military members.

250404. Corrected Claims

When it is established or is reasonably apparent that a claimant has submitted a fraudulent claim and, upon discovery of the fraud, the claimant submits a corrected claim for those items previously suspected of being fraudulent, the certifying officer may not certify this subsequent claim. If the claimant persists in having the claim processed, process it under paragraph 250405 of this chapter.

250405. Reclaims of Items Disallowed or Recovered Due to Fraud

The certifying officer forwards reclaims for items disallowed or recouped due to fraud to the appropriate responsible office through the certifying officer's chain of command and DoD OGC(F); see Appendix E of this volume. If the entire claim was denied, submit the original

claim. Send the completed claim with a cover letter or memorandum from the [certifying officer](#) stating specific information as to why the claim is considered fraudulent, and the statement: “I have not [certified](#) and will not [certify this claim for](#) payment unless authorized by competent authority.” Include the original and two copies of all supporting documents (and the orders with all endorsements if travel is involved), and a copy of the payment voucher on which payment was made for the items free of fraud. If applicable, provide a copy of the ROI and a statement by the claimant supporting his or her belief that the claim is not fraudulent. The claimant’s commander may submit [a statement](#) at the claimant’s option. When endorsing the [certifying officer’s](#) letter or memorandum, the [certifying officer’s](#) commander states an opinion on the case [supporting](#) either the [certifying officer](#) or the claimant.

250406. Accountability for Amounts Paid Due to Fraud

Most instances of fraud occur when a military member or civilian employee whose identity is clearly established submits a claim containing information known to be false. [Occasionally](#), payments are made to individuals whose true identity cannot be determined. In some cases, the individual committing the fraud uses a fictitious name. In others, the name of an actual military member or civilian employee may be used. Losses resulting from the fraudulent acts of other than disbursing office personnel are not physical losses; treat them as improper payments. The DO accounts for these irregularities by leaving the payment charged to the appropriation. In any of the above situations, report and investigate the occurrence as prescribed in Chapter 6 of this volume.

250407. Relief of Liability

Submit requests for relief of liability for illegal or improper payments caused by fraudulent claims as prescribed in Chapter 6 of this volume.

2505 CLAIMS AGAINST THE GOVERNMENT

250501. General

[31 U.S.C. 3702](#), Authority to Settle Claims, provides general authority for settling claims against the U.S. It provides that any claim against the U.S. will be barred forever unless the claim, bearing the signature and address of the claimant or an authorized agent or attorney is received by the responsible agency within 6 years after the date the claim first accrued. The Secretary of Defense may waive the time limitation for certain late claims involving military personnel. This statute applies unless a more specific statute, with its own period of limitation for asserting claims against the government, governs a claim.

250502. Claims

The offices listed in Appendix E of this volume have been designated to settle claims against the government. Process claims not listed following DoD Component claims regulations and procedures.

250503. Claim Submission Procedures

A. General. Submit claims on an individual voucher basis using the appropriate claim form, identifying the payee by name and social security (or employer's identification) number, as appropriate, supported by a claim over the claimant's signature and address. If the entire amount due is recommended for setoff, the claim voucher may be submitted without a supporting claim. The claimant may state the claim directly on a dealer's bill or public voucher. Submit claim vouchers with supporting documents by transmittal letter to the supporting DFAS site. Submit vouchers covering claims chargeable to either lapsed or available appropriations in an original with sufficient copies for normal distribution. See Volume 8 of this Regulation for guidance on processing claims for payments due deceased civilian employees.

B. Voucher Preparation. Include on the voucher:

1. The name and current address of the claimant or assignee,
2. The appropriation and other accounting data chargeable,
3. A statement as to the purpose of the payment,
4. A citation of the contract number,
5. Previous voucher payment(s),
6. Project order and any other data required to process the voucher,
7. An explanation of the difference when the recommended amount of payment is different from the amount claimed, and
8. Details regarding setoff as specified in subparagraph 250503.D of this chapter.

C. Letter of Transmittal. Include in the letter of transmittal a statement of facts surrounding the claim, the reason(s) for forwarding the claim, an explanation of the doubtful aspects, and either a recommendation with supporting reason(s) or a statement that there is no specific recommendation and the reason no recommendation is made. Include a statement that the claim will not be certified for payment until authorized by appropriate authority.

D. Setoff. In all cases involving setoff, submit an additional copy of the voucher, showing the amount recommended for setoff and the complete accounting data to be credited. Also furnish a statement showing the basis for the setoff in sufficient detail to permit adequate explanation to the claimant. If no recommendation can be made regarding the amount to be set off, the responsible settlement authority inserts the amount on the voucher.

250504. Review of Claims

The supporting DFAS site reviews each claim to determine whether it is complete, as described in this section, and proper for submission to the responsible settlement authority. If submission of all or a major part of the claim to the responsible settlement authority is not required, return the claim to the submitting office with:

- A. Advice that all or a major portion of the claim should be paid locally,
- B. A citation to the regulation(s) that authorizes or provides for such payment, and
- C. A statement that the doubtful portion of the claim should be resubmitted, if appropriate.

250505. Payment of Claims After Approval by the Responsible Settlement Authority

The supporting DFAS site sends approved civilian and military pay claims to the appropriate office for payment. The supporting DFAS site pays all other approved claims. Distribute copies of vouchers for approved claims paid against available appropriations in the same manner as other comparable vouchers. For example, send one copy of a voucher for approved claims paid against a successor appropriation to the payee, one copy to the office that administers the applicable successor appropriation, and one copy to the accountable activity.